

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
Harold L. Bennett) Before the Examiner
Serial No. 09/994,560) Cephia D. Toomer
Filed: November 27, 2001) Group Art Unit 1714
IMPROVED PROCESS FOR PRODUCTION)
OF LOW TEMPERATURE CHAR)
DURING PRODUCTION OF LOW)
TEMPERATURE TARs) July 16, 2008

**PETITION TO REVIVE ABANDONED PATENT
IN ACCORDANCE WITH 37 C.F.R. § 1.137 (a), (b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions to revive United State Patent No. 5,649,523, pursuant to 37 C.F.R. § 1.182, or, alternatively, under § 1.137(a) or (b). This patent became abandoned for failure to timely respond to an Office Action, which response was due April 15, 2003. However, the files of Applicant's counsel reflect that a response was filed on May 15, 2003, including a request for a 1 month extension of time and the requisite fee, as well as an authorization to deduct any fees for any additional extensions of time from a valid deposit account.

The files further reflect that:

1) On July 24, 2003, the Examiner contacted the office of Applicant's counsel, and indicated that the file wrapper at the PTO did not include any response to the January 15 Office Action;

2) In response, office of Applicant's counsel confirmed that, according to its fax records, it had received confirmation that the PTO's fax bank had received all pages of the response on

May 15. The Examiner believed the response may have been submitted to the scanning department at the PTO.

The office of Applicant's counsel indicated that, if the Examiner was unable to locate the response to the office action, it would provide another copy of the response. However, no such request was ever received by Applicant's counsel. See Exhibits A and B (a copy of the response, including the fax transmittal confirmation, and contemporaneous notes recorded at the office of counsel for the applicant, recording communications with the Examiner, respectively).

Applicant asks for a determination by the Director, pursuant to 37 C.F.R. § 1.182, that the application was never properly abandoned, because the required response was timely filed, and that, rather than a Notice of Abandonment, the Patent Office should have either allowed the application or issued an Office Action stating the grounds for continued rejection or objections.

Alternatively, Applicant asks that the application be revived pursuant to 37 C.F.R. § 1.137(a), because the abandonment was not the product of any delay in filing a response to the Office Action, and, therefore, it was unavoidable.

As a third alternative, Applicant asks that the application be revived pursuant to 37 C.F.R. § 1.137(b), because any delay in filing this petition was unintentional. Harold Bennett, the inventor and principal of the assignee, only recently learned, when he attempted to look up the file on line, that the file had become abandoned. *See* Exhibit C, Declaration of Harold Bennett. Although a Notice of Abandonment was sent to the office of Applicant's counsel, Mr. Bennett never received a copy of that Notice.

A \$400 fee for the petition pursuant to § 1.182, as set forth in § 1.17(f), is enclosed. The Office is authorized to charge any additional fees required to Deposit Account 23-3030, including, should the Commissioner conclude that the patent was unavoidably or unintentionally

abandoned, the difference in the fees required under §§ 1.82 and 1.137(a)(2) or (b)(2). In that event, and since the response to the Office Action was submitted by fax on May 15, 2003, no outstanding response is required under 37 C.F.R. § 1.137(a)(1) or (b)(1). However, a copy of that response (including fax cover page) is attached as Exhibit A, against the possibility that the Patent Office never located the misplaced response. Since the application is for a utility patent application filed after June 8, 1995 no terminal disclaimer is required pursuant to § 1.137(a)(4) or (b)(4).

The Commissioner is respectfully requested to contact the undersigned attorney by telephone to resolve any issues regarding this petition and/or application.

Respectfully submitted,

By: /s/Quentin G. Cantrell

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